ANNEXURES

BILLS APPENDED AS ANNEXURE

THE MYSORE SALES TAX (AMENDMENT) BILL, 1972

(*L. A. Bill No.* 16 *of* 1972)

A Bill further to amend the Mysore Sales Tax Act, 1957.

Whereas it is expedient further to amend the Mysore Sales Tax Act, 1957 (Mysore Act 25 of 1957) for the purposes hereinafter appearing;

Be it enacted by the Mysore State Legislature in the Twenty-third year of the Republic of India, as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Mysore Sales Tax (Amendment) Act, 1972.

2. This section, clause (1) of section 2 and sections 6, 7, 9, 12 and 13 shall be deemed to have come into force on the first day of July 1972 and the remaining provisions of this Act shall come into force on the date of its publication in the official Gazette.

2. *Amendment of section 5.*—In section 5 of the Mysore Sales Tax Act, 1957 (Mysore Act 25 of 1957) (hereinafter referred to as the principal Act).—

(1) in sub-section (1), for the words "three per ecent" the words "three and a half per cent" shall be substituted ;

(2) in sub-section (3),—

(*a*) after the proviso to clause (*a*), the following further proviso shall be inserted, namely:—

"Provided further that in respect of sale of goods mentioned in serial number 38 of the Second Schedule, the sale by a licensee of a bonded warehouse to a person not being such a licensee shall be deemed to be the sale by the first dealer liable to tax under this section."

(*b*) after clause (*b*), the following Explanation shall be inserted, namely :—

"*Explanation.*—For the purpose of the second proviso to clause (*a*), the expression "bonded warehouse" shall have the same meaning as in the Mysore Excise Act, 1965 (Mysore Act 21 of 1956)."

3. *Amendment of section 12.*—In section 12 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Before any dealer submits any return under sub-section (1), he shall, in the prescribed manner, pay in advance the full amount of tax payable by him on the basis of such return as reduced by any tax already paid under section 12B and shall furnish along with the return satisfactory proof of the payment of such tax. After the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed."

4. *Amendment of section 12B.*—In section 12B of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Subject to such rules as may be prescribed, every dealer shall send every month to the assessing authority a statement containing such particulars as may be prescribed including the taxable turnover during the preceding month, and shall pay in advance the full amount of tax payable by him on the basis of his actual taxable turnover during the preceding month and the amount so payable shall for the purposes of sub-section (3) of section 13 be deemed to be an amount due under this Act from such dealer."

5. *Amendment of section 13.*—After clause (*a*) of sub-section (3) of section 13 of the principal Act the following clause shall be inserted, namely :—

"(*aa*) by attachment and sale or by sale without attachment of any property of such dealer or any other person by the assessing authority or the prescribed officer in accordance with such rules as may be prescribed;".

6. *Substitution of new section for section 15.*—For section 15 of the principal Act, the following section shall be and shall be deemed always to have been substituted, namely :—

"*15. Tax payable on transfer of business, etc.*—(1) When the ownership of the business of a dealer liable to pay the tax or penalty, or any other amount under the provisions of this Act, is transferred, the transferor and the transferee shall jointly and severally be liable to pay any tax or penalty or any other amount payable in respect of such business and remaining unpaid at the time of transfer and for the purpose of recovery from the transferee such transferee shall be deemed to be the dealer liable to pay the tax or penalty or other amount under this Act.

(2) When a firm liable to pay the tax, or penalty is dissolved, the assessment of the tax and imposition of penalty shall be made as if no dissolution of the firm had taken place, and every person who was at the time of dissolution a partner of the firm and the legal representative of any such person who is deceased, shall be jointly and severally liable to pay the tax or penalty assessed or imposed.

(3) When an undivided Hindu Family or Aliyasanthana family liable to pay the tax or penalty is partitioned the assessment of the tax and the imposition of penalty shall be made as if no partition of the family had taken place, and every person who was a member of the family before the partition shall be jointly and severally liable to pay the tax or penalty assessed or imposed.".

7. *Amendment of section* 17.—In sub-section (1) of section 17 of the principal Act, for the existing Table, the following Table shall be substituted, namely :—

"TABLE

Sl. No.	*Tatal turnover*	*Rate*
1.	Where the total turnover is not less than twenty-five thousand rupees, but is less than thirty-five thousand rupees.	Six hundred rupees per annum.
2.	Where the total turnover is not less than thirty-five thousand rupees, but is less than forty-five thousand rupees.	Nine hundred rupees per annum.
3.	Where the total turnover is not less than forty-five thousand rupees, but is less than fifty-five thousand rupees.	One thousand and two hundred rupees per annum.
4.	Where the total turnover is not less than fifty-five thousand rupees, but is less than sixty-five thousand rupees.	One thousand and five hundred rupees per annum.
5.	Where the total turnover is not less than sixty-five thousand rupees, but is less than seventy-five thousand rupees.	One thousand and eight hundred rupees per annum".

8. *Insertion of new section 17 A.*—After section 17 of the principal Act, the following section shall be inserted, namely :—

"*17A. Rounding off of tax etc.*—The amount of tax (including tax payable in advance), penalty or any other amount payable and the amount of refund due, under this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored."

9. *Amendment of section 21.*—In sub-section (2) of section 21 of the principal Act, for the words and figures "no appeal has been preferred to him under section 20", the words and figures "no appeal has been preferred under section 20", shall be and shall be deemed always to have been substituted.

10. *Amendment of section 29.*—In section 29 of the principal Act,—

(1) in sub-section (1), after clause (*e*), the following clause shall be inserted, namely :—

"(*f*) being a dealer fails to compuly with a notice issued under sub-section (1) of section 28 ;".

(2) in sub-section (2), after clause (*aa*), the following clause shall be inserted, namely :—

"(*aaa*) wilfully fails to submit a statement as required by sub-section (1) of section 12 B or wilfully submits an untrue statement under the said sub-section ;".

11. *Amendment of section 38.*—In sub-section (2) of section 38 of the principal Act, after clause (h), the following clause shall be inserted, namely :—

"(*h*-1) the procedure to be followed and the powers exercisable in proceedings for recovery under clause (aa) of sub-section (3) of section 13 ;"

12. *Amendment of Second Schedule.*—In the Second Schedule to the principal Act,—

(1) in column 3 of Serial No. 10, for the words "Twelve per cent", the words "Fourteen per cent" shall be substiuted ;

(2) in column 3 of Serial No. 15, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(3) in column 3 of Serial No. 17, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(4) in column 3 of Serial No. 18, for the words "Tewelve per cent", the words "Fourteen per cent" shall be substituted ;

(5) in column 3 of Serial No. 19, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(6) in column 3 of Serial No. 52, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(7) in column 3 of Serial No. 53, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(8) in column 3 of Serial No. 54, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(9) in column 3 of Serial No. 55, for the words "Twelve per cent" the words "Fourteen per cent" shall be substituted ;

(10) in column 3 of Serial No. 56, for the words "Twelve per cent" the words "Fourteen per cent" shall be substituted ;

(11) in column 3 of serial No. 57, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(12) in column 3 of serial No. 58, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(13) in column 3 of serial No. 67, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;

(14) in column 3 of serial No. 70, for the words "Twelve per cent", the words, "Fourteen per cent" shall be substituted ;

(15) in column 3 of serial No. 71, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted ;..

(16) in column 3 of serial No. 72, for the words "Twelve per cent", the words "Fourteen per cent" shall be substituted.

13. *Validation of assessments. etc.*—Notwithstanding anything contained in any judgment, decree or order of any court or tribunal or other authority to the contrary any assessment, re-assessment, revised assessment levy or collection of any tax made or purporting to have been made, any action, or thing taken or done (including any notices or orders issued or assessments, payments, recoveries or refunds made and all proceedings held for the levy or collection of tax or amount purported to have been collected by way of tax), in relation to such assessment, re-assessment, revised assessment, levy or collection under the provisions of the principal Act before the commencement of this Act shall be deemed to be as valid and effective as if such assessment, re-assessment, revised assessment, levy or collection or action or thing had been made, taken or done under the principal Act as amended by sections 6 and 9 of this Act and accordingly—

(*a*) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, re-assessment, revised assessment, levy or collection of such tax shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with law ;

(*b*) no suit or other proceedings shall be maintained or continued in any court or tribunal or before any authority for the refund of any such tax ; and

(*c*) no court shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(*a*) from questioning in accordance with the provisions of the principal Act, as amended by this Act, any assessment, re-assessment, revised assessment, levy or collection of tax referred to in sub-section (1), or

(*b*) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the principal act as amended by this act.

Statement of objects and Reasons

In the budget speech, certain changes in the sales tax rates and rationalisation of composition rates have been announced. The Bill is intended to give effect to these changes. Opportunity has been taken to make other amendments with a view to remove certain difficulties and also tighten up the procedure regarding collections.

Hence this Bill.

Memorandum regarding delegated Legislation

Clause 3 of the Bill empowers the State Government to prescribe by rules the manner in which full amount of the tax payable by a dealer on the basis of the return submitted by him shall be paid in advance.

Clause 4 of the Bill empowers the State Government to make rules subject to which every dealer shall send every month to the assessing authority a statement and the particulars such statement should contain.

Clauses 5 and 11 of the Bill empowers the State Government to prescribe by rules the officers who shall take proceedings for recovery under clause (aa) of sub-section (3) of section 13, and the procedure to be followed and the powers exercisable by the authority or officer taking such proceedings.

The proposed delegation of legislative power is of normal character.

Financial Memorandum

The new clause (aa) of sub-section (3) of section 13 of the Act proposed to be inserted by clause 5 of the Bill makes provision for empowering the assessing officer to collect the tax arrears by distraint and sale of defaulters' properties. This is expected to involve appointment of some extra staff to attend to this work, namely about seven Assistant Commercial Tax Officers and fourteen Commercial Tax Inspectors. The recurring annual expenditure on this account is about Rs. 90,000.

M. Y. GHORPADE,

TE. HANUMANTHAPPA
Secretary.